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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 MARIO LOPES BENITEZ,

9 *Petitioner,*

10 vs.

11 E.K. MCDANIEL, *et al.*,

12 *Respondents.*
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3:08-cv-00543-ECR-VPC

ORDER

15 IT IS HEREBY ORDERED that the motion (#35) to reset hearing date is GRANTED
16 on the following basis.

17 Following upon petitioner's motion (#35) to reset hearing date, and for good cause
18 shown,

19 IT IS ORDERED that the setting of the evidentiary hearing on March 15, 2011, in Reno
20 Nevada is VACATED and that this matter shall be RESET and placed on calendar at a
21 courtroom to be assigned, at 9:00 a.m. on Tuesday, March 29, 2011, at the Lloyd D. George
22 United States Courthouse, 333 Las Vegas Boulevard South, Las Vegas, Nevada, for an
23 evidentiary hearing as to all factual issues pertaining to the tolling issues raised in connection
24 with the respondents' motion (#26) to dismiss.

25 IT FURTHER IS ORDERED that no later than **fifteen (15) days** prior to the hearing,
26 petitioner's counsel shall submit a **prisoner transport order** to secure petitioner's presence
27 at the hearing; and any party wishing to call any other prisoner to testify similarly shall submit
28 an order to transport prisoner by that date. No continuance will be granted for failure to

1 secure the attendance of the petitioner or any other prisoner unless an order to transport
2 prisoner was timely sought.

3 IT FURTHER IS ORDERED that, **on the morning of the day of the hearing**, if any
4 exhibits are to be offered in connection with the evidentiary hearing, counsel for any party
5 seeking to introduce exhibits shall provide the Courtroom Deputy with four binders or sets of
6 **exhibit binders**, with one such binder or set of binders containing counsel's exhibits for
7 introduction at the hearing, and the other three binders or sets being for the bench, the
8 witness stand, and the staff attorney. Each counsel additionally shall provide one additional
9 binder or set of binders to opposing counsel. If joint exhibits are submitted, counsel shall
10 make arrangements between themselves similarly to provide the Courtroom Deputy with four
11 binders or sets of exhibit binders containing the joint exhibits.

12 No other date-certain pre-hearing procedures or memoranda are required at this time.
13 If a request is made, counsel shall advise opposing counsel telephonically or through other
14 prompt means (e.g., fax or e-mail) as to the witnesses and/or exhibits that counsel in good
15 faith then reasonably anticipates presenting at the hearing. The Court further anticipates that
16 the hearing will take no more than a day, and likely less, to complete. If, in the course of their
17 preparation, either counsel comes to the conclusion that more than two hours will be
18 necessary to present their respective side of the case, counsel shall promptly advise the
19 Courtroom Deputy and opposing counsel.

20 DATED: February 16, 2011

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24 EDWARD C. REED
25 United States District Judge
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